

**MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT  
SENTENCE BY A PERSON IN FEDERAL CUSTODY**

<b>United States District Court</b>		<b>District</b>
<b>Name (under which you were convicted):</b>		<b>Docket of Case No:</b>
HUBERT CARTER		4:17-CR-00242-BP
<b>Place of Confinement</b>		<b>Prisoner No:</b>
LACKAWANNA COUNTY PRISON		20220 1871
<b>Movant</b>	<b>V.</b>	<b>United States of America</b>
HUBERT CARTER		

**MOTION**

1. (a) Name and location of court that entered the judgment of conviction you are challenging:  
WESTERN DISTRICT OF MISSOURY KANSAS CITY, MO
- (b) Criminal docket or case number (if you know): 4:17-CR-00242-BP
2. (a) Date of the judgment of conviction (if you know): ~~12-07-18~~
- (b) Date of sentencing: 12-07-2018
3. Length of sentence: 180 MONTHS
4. Nature of crime (all counts): 924E 9226 ACCA
5. (a) What was your plea: (Check one)  
 (1) Not guilty      (2) Guilty      (3) Nolo contendere (no contest)
- (b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, what did you plead guilty to and what did you plead not guilty to? \_\_\_\_\_

6. If you went to trial, what kind of trial did you have? (Check one) Jury Judge Only

7. Did you testify at a pretrial hearing, trial, or post-trial hearing? Yes No

8. Did you appeal from the judgment of conviction? Yes No

9. If you did appeal, answer the following:

(a) Name of court: US COURT OF APPEALS 8TH CIR.

(b) Docket or case number (if you know): 18-3719

(c) Result: DENIED / AFFIRMED

(d) Date of result (if you know): 2-19-20

(e) Citation of the case (if you know):

(f) Grounds raised: 6TH AMENDMENT VIOLATION DIFFERENT OCCASIONS

(g) Did you file a petition for certiorari in the United States Supreme Court? Yes No

If "Yes," answer the following:

(1) Docket or case number (if you know): 18-3719

(2) Result: DENIED

(3) Date of result (if you know): 6-22-2020

(4) Citation to the case (if you know):

(5) Grounds raised: SAME AS IN APPEAL

10. Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications concerning this judgment of conviction in any court?

Yes

No

11. If your answer to Question 10 was "Yes," give the following information:

(a)(1) Name of court: CIRCUIT COURT WESTERN DISTRICT MISSOURI

(2) Docket or case number (if you know): DOCKET - 60

(3) Date of filing (if you know): DEC 12, 2022

(4) Nature of the proceeding: PRO SE motion to REVIEW Plain Error

(5) Grounds raised: UNIFORM DEFINITION GENERIC OFFENCES MATHS CLAIM

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?  
Yes ☐ No ☒

(7) Result: DENIED WITHOUT PREJUDICE

(8) Date of result (if you know): FEB 3, 2023

(b) If you file any second motion, petition, or application, give the same information:

(1) Name of court: WESTERN DISTRICT MD. CIRCUIT COURT

(2) Docket of case number (if you know): ~~63~~ ~~63~~ DOCKET # 63

(3) Date of filing (if you know): \_\_\_\_\_

(4) Nature of the proceeding: INTER ALIA

(5) Grounds raised: TO GRANT FIRST motion FOR GOVERNMENT not opposing prior motion

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?  
Yes ☐ No ☒

(7) Result: DENIED

(8) Date of result (if you know): FEB 3, 2023

(c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition, or application?

(1) First petition Yes ☐ No ☒

(2) Second petition Yes ☐ No ☒

(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not: I WAS NOT GIVING THE OPPORTUNITY TO APPEAL BECAUSE THE motion WAS NOT A PROPER VERIFICATION TO ARGUE THE motion

12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE: IMPROPER SENTENCE UNDER A.C.A.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim):

MY PRIOR STATE OFFENCES ARE NOT ACCA. PREDICATES. AND THEY WERE USED TO GIVE ME 15 YEARS

(b) Direct Appeal of Ground One:

(1) If you appealed from the judgment or conviction, did you raise this issue?

Yes

No

(2) If you did not raise this issue in your direct appeal, explain why: BECAUSE I DID NOT FILE MY APPEAL. A DIFFERENT LAWYER FILED IT.

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes

No

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion, petition, or application?

Yes

No

(4) Did you appeal from the denial of your motion, petition, or application?

Yes

No

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue on appeal?

Yes

No

(6) If your answer to question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result: (attach a copy of the court's opinion or order if available): \_\_\_\_\_

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: BECAUSE MY LAWYER REFUSED TO RAISE THIS  
ISSUE. I EVEN FILED 2 PRO SE MOTION TO TRY  
HAVE THIS MATTER REMOVED BECAUSE SHE REFUSED  
TO RAISE THESE ISSUES

GROUND TWO: INEFFECTIVE COUNSEL

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim):

MY LAWYER REFUSE TO RAISE THE A.C.C.A. PREDICATES  
AT ALL EVEN THOUGH A NEW CASE WAS DECIDED  
IN MY CIRCUIT

(b) Direct Appeal of Ground Two:

(1) If you appealed from the judgment or conviction, did you raise this issue?

Yes

No

(2) If you did not raise this issue in your direct appeal, explain why: AT THE TIME

I DID NOT UNDERSTAND THE ASPECTS OF THAT  
PART OF THE LAW. I AM NOT A LAWYER  
AND I HAVE NO TRAINING IN LAW

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes

No

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion, petition, or application?

Yes No

(4) Did you appeal from the denial of your motion, petition, or application?

Yes No

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue on appeal?

Yes No

(6) If your answer to question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result: (attach a copy of the court's opinion or order if available): \_\_\_\_\_

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

At the time I did not know that I could file. I am not a lawyer and have no training in law.

### GROUND THREE: Ineffective Counsel

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim):

My appeal attorney refuse to file appeal on a malpractice claim. He filed on other grounds that had been argued and denied in other cases

**(b) Direct Appeal of Ground Three:**

(1) If you appealed from the judgment or conviction, did you raise this issue?

Yes

No

(2) If you did not raise this issue in your direct appeal, explain why:

BECAUSE I DID NOT KNOW AT THE TIME I COULD I AM NOT A LAWYER AND HAVE NO TRAINING IN LAW

**(c) Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes

No

(2) If your answer to Question (c)(1) is "Yes", state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion, petition, or application?

Yes

No

(4) Did you appeal from the denial of your motion, petition, or application?

Yes

No

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue on appeal?

Yes

No

(6) If your answer to question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result: (attach a copy of the court's opinion or order if available): \_\_\_\_\_

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: \_\_\_\_\_

**GROUND FOUR:** \_\_\_\_\_

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim): \_\_\_\_\_

**(b) Direct Appeal of Ground Four:**

(1) If you appealed from the judgment or conviction, did you raise this issue?

Yes                      No

(2) If you did not raise this issue in your direct appeal, explain why: \_\_\_\_\_

**(c) Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes                      No

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion, petition, or application?

Yes                      No

(4) Did you appeal from the denial of your motion, petition, or application?

Yes                      No



(d) At sentencing: \_\_\_\_\_

(e) On appeal: \_\_\_\_\_

(f) In any post-conviction proceeding: \_\_\_\_\_

(g) On appeal from any ruling against you in a post-conviction proceeding: \_\_\_\_\_

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time? Yes No

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future: \_\_\_\_\_

(b) Give the date of the other sentence was imposed: \_\_\_\_\_

(c) Give the length of the other sentence: \_\_\_\_\_

(d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the judgment or sentence to be served in the future? Yes No

18. TIMELINESS OF MOTION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitation as contained in 28 U.S.C. § 2255 does not bar your motion.\* (see below)

At the time I was being housed at FCI, Yazoo MS, and the COVID-19 virus was running a muck and we were not allowed out of our cell and I had no access to law material. Then I was transferred to FCI Bennettsville SC and still we were not allowed access to law material. Then I was transferred to FCI Schuylkill PA and just started to get information

\*The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2255, paragraph 6, provides in part that:

A one-year period limitations shall apply to a motion under this section. The limitation period shall run from the latest of:

- (1) the date on which the judgment of conviction became final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making such a motion by such governmental action;

(3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or  
(4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

Therefore, Movant asks that the Court grant the following relief: VACATE RESENTENCE  
OR SET ASIDE AND BE SENTENCED WITH OUT AKA EN-  
HANCEMENTS  
or any other relief to which movant is entitled.

\_\_\_\_\_  
Signature of Attorney (if any)

I, declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Motion Under 28 U.S.C. § 2255 was placed in the prison mailing system on 3, 5, 2023  
\_\_\_\_\_  
(month, date, year).

Executed (signed) on 3-5-2023 (date)

  
Signature of Movant

If the person signing is not movant, state relationship to movant and explain why movant is not signing this motion. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

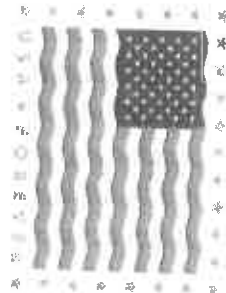
Name: HUBERT CARTER 202201871  
Lackawanna County Prison  
1371 N Washington Avenue  
Scranton, PA 18509-2840

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KANSAS CITY, MO

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